

109TH CONGRESS
1ST SESSION

S. 1758

AN ACT

To amend the Indian Financing Act of 1974 to provide for sale and assignment of loans and underlying security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. LOAN GUARANTY AND INSURANCE.**

2 (a) IN GENERAL.—Section 201 of the Indian Finance-
3 ing Act of 1974 (25 U.S.C. 1481) is amended—

4 (1) by striking “SEC. 201. In order” and insert-
5 ing the following:

6 **“SEC. 201. LOAN GUARANTIES AND INSURANCE.**

7 “(a) IN GENERAL.—In order”;

8 (2) by striking “the Secretary is authorized (a)
9 to guarantee” and inserting “the Secretary may—

10 “(1) guarantee”;

11 (3) by striking “members; and (b) in lieu of
12 such guaranty, to insure” and inserting “members;

13 or

14 “(2) insure”; and

15 (4) by adding at the end the following:

16 “(b) ELIGIBLE BORROWERS.—The Secretary may
17 guarantee or insure loans under subsection (a) to both for-
18 profit and nonprofit borrowers.”.

19 (b) SALE OR ASSIGNMENT OF LOANS AND UNDER-
20 LYING SECURITY.—Section 205 of the Indian Financing
21 Act of 1974 (25 U.S.C. 1485) is amended—

22 (1) by striking “SEC. 205.” and all that follows
23 through subsection (b) and inserting the following:

1 **“SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDER-**
 2 **LYING SECURITY.**

3 “(a) IN GENERAL.—All or any portion of a loan
 4 guaranteed or insured under this title, including the secu-
 5 rity given for the loan—

6 “(1) may be transferred by the lender by sale
 7 or assignment to any person; and

8 “(2) may be retransferred by the transferee.

9 “(b) TRANSFERS OF LOANS.—With respect to a
 10 transfer described in subsection (a)—

11 “(1) the transfer shall be consistent with such
 12 regulations as the Secretary shall promulgate under
 13 subsection (h); and

14 “(2) the transferee shall give notice of the
 15 transfer to the Secretary.”;

16 (2) by striking subsection (c);

17 (3) by redesignating subsections (d), (e), (f),
 18 (g), (h), and (i) as subsections (c), (d), (e), (f), (g),
 19 and (h), respectively;

20 (4) in subsection (c) (as redesignated by para-
 21 graph (3)), by striking paragraph (2) and inserting
 22 the following:

23 “(2) VALIDITY.—Except as provided in regula-
 24 tions in effect on the date on which a loan is made,
 25 the validity of a guarantee or insurance of a loan
 26 under this title shall be incontestable.”;

1 (5) in subsection (e) (as redesignated by para-
2 graph (3))—

3 (A) by striking “The Secretary” and in-
4 serting the following:

5 “(1) IN GENERAL.—The Secretary”; and

6 (B) by adding at the end the following:

7 “(2) COMPENSATION OF FISCAL TRANSFER
8 AGENT.—A fiscal transfer agent designated under
9 subsection (f) may be compensated through any of
10 the fees assessed under this section and any interest
11 earned on any funds or fees collected by the fiscal
12 transfer agent while the funds or fees are in the con-
13 trol of the fiscal transfer agent and before the time
14 at which the fiscal transfer agent is contractually re-
15 quired to transfer such funds to the Secretary or to
16 transferees or other holders.”; and

17 (6) in subsection (f) (as redesignated by para-
18 graph (3))—

19 (A) by striking “subsection (i)” and insert-
20 ing “subsection (h)”; and

21 (B) in paragraph (2)(B), by striking “,
22 and issuance of acknowledgments,”.

23 (c) LOANS INELIGIBLE FOR GUARANTY OR INSUR-
24 ANCE.—Section 206 of the Indian Financing Act of 1974
25 (25 U.S.C. 1486) is amended by inserting “(not including

1 an eligible Community Development Finance Institution)”
2 after “Government”.

3 (d) AGGREGATE LOANS OR SURETY BONDS LIMITA-
4 TION.—Section 217(b) of the Indian Financing Act of
5 1974 (25 U.S.C. 1497(b)) is amended by striking
6 “\$500,000,000” and inserting “\$1,500,000,000”.

Passed the Senate September 22, 2005.

Attest:

Secretary.

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